



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.

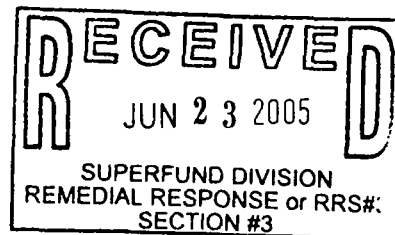


REPLY TO THE ATTENTION OF:

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

DATE:

Cliffs Mining Company
Dennis Fisher, Esq.
Meissner Tierney Fisher & Nichols
111 E. Kilbourn Avenue, 19th floor
Milwaukee, Wisconsin 53202-6622



RE: General Notice Letter for the Milwaukee Solvay Coke & Gas Site, 311 East Greenfield Avenue, Milwaukee, Wisconsin

Dear Mr. Fisher:

The United States Environmental Protection Agency (EPA) has documented the release or threat of release of hazardous substances, pollutants and contaminants into the environment from the Milwaukee Solvay Coke & Gas facility at 311 East Greenfield Avenue in Milwaukee, Wisconsin (Site), and is planning to spend public funds to investigate and control these releases. This action will be taken by EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 *et seq.* (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (SARA), unless EPA determines that such action will be done properly by a responsible party or parties. Responsible parties under CERCLA include the current and former owner(s) and operator(s) of a facility, persons who generated the hazardous substances, and persons who were involved in the transport, treatment, or disposal of the hazardous substances at a facility. Under Section 107(a) of CERCLA, where EPA uses public funds to investigate or control a release of a hazardous substance, responsible parties are liable for all costs associated with the response actions and all other necessary costs incurred in cleaning up the facility, including investigation, planning, and enforcement costs.

Explanation of Potential Liability

Under CERCLA, EPA may require potentially responsible parties (PRPs) to:

- (1) perform cleanup actions to protect the public health, welfare, or the environment, and
- (2) pay costs incurred by EPA at a facility, unless the PRP successfully demonstrates any of the applicable statutory defenses.

EPA received and reviewed your response to its Information Request sent to the Cliffs Mining Company (Cliffs) in connection with the Milwaukee Solvay Coke & Gas Site (Site) located in Milwaukee, Wisconsin. Based upon the information contained in the response and other available information, EPA believes that Cliffs may be liable under Section 107(a) of CERCLA with respect to the Site, as the current or previous owner and/or operator of the Site. Specifically, EPA has reason to believe that releases of hazardous substances occurred during the time Pickands Mather & Co., and the Milwaukee Solvay Coke Company, owned and/or operated the Site.

By this letter, EPA notifies you of Cliffs' potential liability with regard to this matter and encourages Cliffs, as a potentially responsible party, to agree to reimburse EPA for costs incurred to date and to voluntarily perform or finance the response activities that EPA has determined or will determine are required at the Site. As described below, EPA believes that an administrative consent agreement between EPA and PRPs for planned response actions at the Site should be initiated as quickly as possible. Therefore, U.S. EPA does not intend at this time to utilize the special notice procedures available under Section 122(e) of CERCLA. Should EPA determine in the future that the special notice procedures are appropriate to facilitate an agreement it will issue additional notice.

Actions Taken at the Site

In 2002, Tetra Tech EM Inc., prepared a Site Assessment Report evaluating conditions at the Solvay Coke & Gas Site. The site assessment was performed to evaluate on-site conditions and possible threats to human health, welfare and the environment, and included the following tasks: compile site information; review historical aerial photographs; develop a site safety plan; develop a site assessment plan; develop an integrated field sampling plan; perform a site reconnaissance; collect samples from aboveground storage tanks (ASTs), containers, sediment, and surface and subsurface soils; procure an analytical laboratory; provide site photo documentation; provide a written log documenting all on-site activities; validate sample analytical data; and evaluate potential threats to human health and the environment.

Based upon the Site Assessment Report, EPA determined that the actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare or the environment. EPA and several parties entered into an administrative order by consent dated February 14, 2003, pursuant to Sections 106(a), 107 and 122 of CERCLA, to conduct certain removal actions and reimburse U.S. EPA for its costs in overseeing the work performed under the order. The removal actions required by the administrative consent order included: removal of all asbestos containing material; removal of all material in ASTs and demolition and removal of all ASTs and associated piping above ground surface; removal of any surface residue associated with spills or leaks from ASTs; removal of material from an AST open pit area; and removal of all hazardous waste from the inside of any buildings located on Site. The removal actions will contribute to the efficient performance of

any long term remedial action at the Site.

Proposed Actions to be Taken at the Site

Consistent with Section 104(b)(1) of CERCLA and 40 CFR 300.430, EPA plans to conduct a remedial investigation and feasibility study (RI/FS) at the Site. The purpose of the RI/FS is to assess site conditions and evaluate alternatives to the extent necessary to select a remedy. Developing and conducting an RI/FS generally includes the following activities: project scoping, data collection, risk assessment, treatability studies, and analysis of alternative remedies. The purpose of the remedial investigation is to collect data necessary to adequately characterize the scope and degree of contamination at the Site for the purpose of developing and evaluating effective remedial alternatives. The primary objective of the feasibility study is to ensure that appropriate remedial alternatives are developed and evaluated so an appropriate remedy can be selected. Should you have questions about current site conditions or about the RI/FS process, you may contact Demaree Collier, the Remedial Project Manager for the Site, at (312) 886-0214.

Potential for a Superfund Alternative Site Approach

EPA has two main paths to achieve cleanup at Superfund sites that require long-term remediation. The traditional path involves EPA listing the site on the National Priorities List (NPL), identifying the PRPs, and working with them to secure the cleanup or payment for cleanup. The alternative is known as the Superfund Alternative sites (SA) path, which is designed to parallel the NPL path with the exception of listing the site on the NPL. An SA site should:

- be eligible for inclusion on the NPL (*i.e.*, currently proposed to the NPL, or would score above 28.5);
- require long-term response action; and
- have financially viable and capable PRPs that the Region believes are willing to perform the cleanup work under an appropriate settlement agreement.

The EPA guidance on the SA approach, *Revised Response Selection and Settlement Approach for Superfund Alternative Sites* (June 17, 2004), discusses the SA approach generally. The Revised SAS Guidance is available at <http://www.epa.gov/compliance/resources/policies/cleanup/superfund/rev-sas-04.pdf>.

SA sites should satisfy the same cleanup standards as NPL sites, and the agreements negotiated at SA sites are very similar to agreements negotiated at NPL sites. SA agreements are eligible for the same settlement incentives as those available at NPL sites (*e.g.*, orphan share compensation, special account funds).

EPA Region 5 believes that the Site qualifies for the SA approach. Accordingly, EPA is

interested in discussing your willingness to perform an RI/FS under an SA approach. If you are not interested in this approach, EPA will pursue the traditional NPL path. If negotiations for an SA agreement proceed and subsequently reach an impasse, EPA will consider how to proceed based on site-specific circumstances.

Financial Concerns/Ability to Pay Settlements

EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a site may be substantially limited. If you believe, and can document, that you fall within that category, please contact Craig Melodia of the Office of Regional Counsel at (312) 353-8870 for information on "Ability to Pay Settlements." In response, you will receive a package of information about the potential for such settlements and a form to fill out with information about your finances, and you will be asked to submit financial records including business and/or federal income tax returns.

Also, please note that, because EPA has a potential claim against you, you must include EPA as a creditor if you file for bankruptcy.

Information to Assist You

EPA encourages communication between you, other PRPs, and EPA concerning the Site. EPA recommends that all PRPs meet to select a "steering committee" that will be responsible for representing the group's interests. Establishing a manageable group is critical to successful negotiations with EPA. If this is not possible, EPA encourages each PRP to select one person from its company or organization to represent its interests to EPA. To assist you in your efforts to communicate a list of names and addresses of PRPs to whom this letter is being sent is attached.

EPA will establish an Administrative Record that contains documents that serve as the basis for EPA's selection of a cleanup action for the Site. The Administrative Record will be located in the Superfund Records Center on the 7th floor at EPA Region 5, 77 W. Jackson Blvd., Chicago, Illinois 60604, and will be available to you and the public for inspection and comment. The Administrative Record will also be made available for inspection and comment at a location near the Site.

Additional Information

The Superfund Small Business Liability Relief and Brownfields Revitalization Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may obtain a copy of the law via the Internet at <http://www.epa.gov/swerosps/bf/sblbra.htm> and review EPA guidance regarding these

exemptions at <http://cfpub.epa.gov/compliance/resources/policies/cleanup/superfund>.

EPA has created a number of helpful resources for small businesses. EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers which offer various forms of resources to small businesses. You may inquire about these resources at www.epa.gov. In addition, the EPA Small Business Ombudsman may be contacted at www.epa.gov/sbo. Finally, an EPA fact sheet about the Small Business Regulatory Enforcement Fairness Act is enclosed with this letter.

Response Requested

Please give these matters your immediate attention and consider consulting with an attorney. Please contact Craig Melodia of the Office of Regional Counsel at the address below within 21 calendar days of the date of this letter regarding: (1) your willingness to enter into negotiations consistent with the Superfund Alternative approach to perform or finance the activities described above and to reimburse EPA for its costs, and (2) any additional information such as why you may not be a PRP (*e.g.*, you qualify for an exemption), the size of your waste contribution to the Site, or your financial status. If EPA does not receive a timely response EPA will assume that your organization does not wish to negotiate a resolution of its potential responsibility in connection with the Site and that your organization has declined any involvement in performing the response activities. If you are already involved in discussions with State or local authorities or involved in a lawsuit regarding this Site, you may continue such activities as you see fit. This letter is not intended to advise you or direct you presently to restrict or discontinue any such activities already underway; however, you are advised to report the status of those discussions or actions in your response to this letter and to provide a copy of your response to any other parties involved in those discussions or actions. Provide the information requested in this paragraph to:

Craig Melodia
U.S. EPA, Region 5
Office of Regional Counsel (C-14J)
77 W. Jackson Blvd.
Chicago, IL 60604-3590

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Wendy Carney", written in a cursive style.

Wendy Carney, Chief
Remedial Response Branch 1
Superfund Division

Encls.

LIST OF PARTIES SENT GENERAL NOTICE LETTER

American Natural Resources Company

a subsidiary of El Paso Corporation

Kimberley Lesniak

Associate General Counsel

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Cliffs Mining Company

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Maxus Energy Corporation

Sara Roberts Galley

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Quarles & Brady LLP

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Tel: 414-277-5000

Wisconsin Wrecking Company, LLC

Thomas Gerovac Jr.,

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Franksville, Wisconsin 53126

cc:

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Office of Enforcement and Compliance Assurance
INFORMATION SHEET

U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements.

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers:
www.epa.gov/clearinghouse

Pollution Prevention Clearinghouse
www.epa.gov/opptintr/library/ppicindex.htm

EPA's Small Business Ombudsman Hotline provides regulatory and technical assistance information.
(800) 368-5888

Emergency Planning and Community Right-To-Know Act
(800) 424-9346

National Response Center (to report oil and hazardous substance spills)
(800) 424-8802

Toxics Substances and Asbestos Information
(202) 554-1404

Safe Drinking Water
(800) 426-4791

Stratospheric Ozone Refrigerants Information
(800) 296-1996

Clean Air Technology Center
(919) 541-0800

Wetlands Helpline
(800) 832-7828

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page
www.epa.gov

Small Business Assistance Program
www.epa.gov/ttn/sbap

Compliance Assistance Home Page
www.epa.gov/compliance/assistance

Office of Enforcement and Compliance Assurance
www.epa.gov/compliance

Small Business Ombudsman
www.epa.gov/sbo

Innovative Programs for Environmental Performance
www.epa.gov/partners



Compliance Assistance Centers

In partnership with industry, universities, and other federal and state agencies, EPA has established Compliance Assistance Centers (Centers) that provide information targeted to industries with many small businesses. All Centers can be accessed at:

<http://www.assistancecenters.net>

Metal Finishing

(1-800-AT-NMFRC or www.nmfrc.org)

Printing

(1-888-USPNEAC or www.pneac.org)

Automotive Service and Repair

(1-888-GRN-LINK or www.ccar-greenlink.org)

Agriculture

(1-888-663-2155 or www.epa.gov/agriculture)

Printed Wiring Board Manufacturing

(1-734-995-4911 or www.pwbrc.org)

Chemical Industry

(1-800-672-6048 or www.chemalliance.org)

Transportation Industry

(1-888-459-0656 or www.transsource.org)

Paints and Coatings

(1-800-286-6372 or www.paintcenter.org)

Construction Industry

(www.cicacenter.org)

Automotive Recycling Industry

(www.ecarcenter.org)

US / Mexico Border Environmental Issues

(www.bordercenter.org)

State Agencies

Many state agencies have established compliance assistance programs that provide on-site and other types of assistance. Contact your local state environmental agency for more information or call EPA's Small Business Ombudsman at (800)-368-5888 or visit the Small Business Environmental Homepage at <http://www.smallbiz-enviroweb.org>.

Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two policies that potentially apply to small businesses: The Small Business Policy (<http://www.epa.gov/compliance/incentives/smallbusiness>) and

Audit Policy (<http://www.epa.gov/compliance/incentives/auditing>).

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established an ombudsman ("SBREFA Ombudsman") and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The SBREFA Ombudsman will annually rate each agency's responsiveness to small businesses. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System (NAICS) designation, number of employees or annual receipts, defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community because the regulated community previously commented on its activities.

Your Duty to Comply

If you receive compliance assistance or submit comments to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act (SBREFA) or related provisions.